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Prison DA

First, Victims who use deadly force end up in jail.

Leonard “Convicted Survivors: The Imprisonment of Battered Women Who Kill.” Elizabeth Ann Dermody Leonard. December 1997.

In Mann’s (1992) random sample of 114 female-perpetrated spousal homicides, over half of the offenders received prison sentences, with an average of 16 years to serve. Of the women in Browne’s (1987) study, 56 percent argued their cases on the basis of self-defense, 8 percent entered a diminished capacity or insanity plea, and 33 percent pled guilty to a lesser charge in return for leniency in sentencing, and in one case, the charges were dropped; the most common plea arrangement was voluntary manslaughter with reduced jail sentence, or several years probation. Osthoff (1991) reports that the vast majority of women accused of killing their abusive partners (72 percent to 80 percent) are convicted or accept a plea, and many receive long, harsh sentences. In her analysis of domestic homicide offenders, Mann suggests that the system may be growing tougher toward these women: “In 1979 the mean prison sentence was 4.1 years…while in 1983, the mean number of years was 10.2” (1989, Pp. 21-22).

*Just proving legality doenst link turn my offense—Leonard indicates that women often accepted plea agreements meaning they would be sent to jail even before they went to trial.*

And, prison is a hellhole of sexual abuse and suffering for victims.

Summer (Nicole Summer. “Powerless in Prison: Sexual Abuse Against Incarcerated Women.” RH Reality Check. 2007.)

The power dynamics in prison severely disadvantage the prisoner, who is at the absolute mercy of her guards and correctional officers, relying on them for necessities such as food and for the small privileges and luxuries such as cigarettes. Guards have unlimited access to prisoners and their living environment, including where they sleep and where they bathe. With such an imbalance of power, the likelihood of sexual assault increases. Sexual abuse in prison can range from forcible rape to the trading of sex for certain privileges. While the latter may seem consensual to some, the drastic power disparity makes the idea of "consent" almost laughable. In fact, all 50 states have laws that make any sexual contact between inmates and correctional officers illegal, "consensual" or not. "It's always unacceptable and illegal," says Lovisa Stannow, executive director of Stop Prisoner Rape. While guard-on-prisoner sexual assault is common, putting a number on the instances is difficult because so many assaults are unreported. As with sexual assault on the outside, many survivors in prison are ashamed and embarrassed to come forward, fear that their claim will be hard to prove or fear that their attackers will retaliate. In prison the fear of retaliation is heightened, as the prisoner continues to live with her attacker controlling her daily life. And inmates who report a sexual assault are frequently put in segregated isolation, ostensibly to protect them from retaliation, but this isolation can be emotionally and physically draining, and well, terribly isolating. And many women in prison have been sexually abused in the past, before they were incarcerated, or are accustomed to using sex to get what they want, on the inside or the outside. "A lot of women don't view it as abuse," says Deborah Golden, staff attorney at the D.C. Prisoners' Project of the Washington Lawers' Committee for Civil Rights and Urban Affairs. About 80 percent of women inmates have already experienced some kind of sexual or physical abuse before prison, says Sarah From, director of public policy and communications at the Women's Prison Association. Despite the widespread underreporting, some statistics exist. First, there are about 200,000 women incarcerated in the U.S. (in federal, state, local and immigration detention settings), a number that is growing exponentially and that makes up about 10 percent of the total prison population. Amnesty International reports that in 2004, a total of 2,298 allegations of staff sexual misconduct against both male and female inmates were made, and more than half of these cases involved women as victims, a much higher percentage than the 10 percent that women comprise of the total prison population. It can vary from institution to institution, but in the worst prison facilities, one in four female inmates are sexually abused in prison, says Stannow.

Reasons to prefer

A. The conclusion is based on victim’s reporting the gravity of prison abuse, that’s better because the victims are the actor

B. Err on the side of caution, sexual abuse is underreported; meaning any risk of the impact is reason to vote neg.

C. Turns the aff—perpetuates the harms already created by the first wave of domestic violence. 80 percent of women in prison have already experienced the abuse. Deadly force fails the same standards that the aff uses to rule out other options to stop the abuse

*Third, even the arrest triggers the impact*

Callahan provides the impact (Renee Callahan-1994[Washing College of Law] “Will the Real Battered Woman Please stand up? In Search of a realistic legal definition of battered woman syndrome”)

For the overwhelming majority of the battered women defendants in this study, the homicide arrest was their first experience with interrogation, arraignment, and/or commitment to a county jail facility. Frightened, confused, and often traumatized from a recent beating and their own lethal actions, women report that confinement in county jail was more trying than subsequent confinement in state prison. One recurrent criticism that arises from their jail time is the use of prescription drugs—anti-depressants and mood-regulators 10—as ordered by jail medical staff. Shaw (1982) reports that the use of psychotropic medication is common throughout most American correctional institutions and she suggests its function[s] as a form of social control. In comparing men’s and women’s penal institutions, McCorkel (1996, p. 171) finds that “women’s institutions rely on the prescription of psychotropic drugs (e.g. tranquilizers) to restrict and control inmate behavior.”

***Reasons to prefer***

***A. Callahan cites overwhelming majority of victims, most accurate representation of the topic lit.***

***B. Callahan talks about how the women are still agitated from their experience, which makes a successful self-defense plea less likely.***

***C. Even if they get off on self-defense, I still get the impact, Callahan takes about the depravity of any time spent in prison.***

Util Analytic Turns

**( ) Turn: Deadly force creates more violence because viewing victims who use deadly force as legally and morally culpable for their actions conceptually legitimates violence within domestic contexts as long as the killer can plausibly claim that “She started it!” Since abusers often rationalize their behavior in terms of their victim’s alleged offenses against them, affirming adds social sanction to the basic rationale for acts of abuse.**

**( ) Turn: Affirming allows abusers who kill their victims to claim victim status as a legal defense. Since it may be hard to accurately falsify such claims, this practice weakens the deterrent effect of legal penalties against domestic abuse and encourages abusers to kill their victims before they can seek legal recourse, increasing domestic violence and threat of death.**

**( ) Turn: Murder trials are hugely expensive, which means that a widespread practice of killing abusers would drain resources from the legal system that could be used much more efficiently to prevent and prosecute abuse and other violent crime. Further, funds could be used for education and awareness programs to solve the problem of domestic violence.**

**( ) Turn: The threat of being killed by their victims in self-defense will incite abusers to physically and psychologically incapacitate their victims to the greatest possible degree in order to protect their own lives, which means that affirming will increase the frequency and severity of acts of domestic violence.**

**( ) Turn: The public prominence of cases where victims kill their abusers undermines public sympathy for victims of abuse by casting them in the unsympathetic role of psychologically dysfunctional killers. This weakens social stigma against abuse and increases domestic violence by preventing social change to stop the problem.**

**( ) Turn: This creates a bad norm because justifying deadly force causes slippery slope to justified homicide, lack of objective standard sets a bad precedent, higher probability of unjustified violence, not only re-entrenches domestic violence if it fails, but also magnifies the prison impact because higher frequencies of arrests if it doesn't fail, the Leonard evidence indicates prisons are growing tougher against women, so the worse the impact.**

Backfire Turns

The aff assumes efficacy, but deadly force doesn't always work. Failed deadly force empirically increases the abuse—prefer the evidence, claims are self-reporting so its most consistent with victim experience.

**Saunders**

Daniel G. Saunders. “When Battered Women Use Violence: Husband-Abuse or Self-Defense?” Victims and Violence, Vol. 1, No. 1, 1986. Springer Publishing Company.

Even though many battered women may aggressively defend themselves from attack and may be legally justified in doing so, it would be a mistake to assume that aggression works for victims. Available evidence indicates that such action will probably make things worse. In Fotjik’s (1977-1978) survey of help-seeking battered women, 77% of those who tried to defend themselves reported that it escalated the violence. Bowker (1983) also found that an aggressive response escalated the man’s violence. He found that the most successful strategies women used in stopping their husbands’ attacks were threats of divorce or threats to invoke criminal justice sanctions. Bowker concluded that this method worked because it improved the balance of power between the partners.

Deadly force backfires—the victim is put at further risk due to violent retaliation to reassert control

Wyckoff Rachael Wyckoff. “Self-Protective Behaviors and Injury in Domestic Violence Situations: Does it Hurt to Fight Back?” M.A., 2008. University of Maryland. Directed by Sally Simpson, Professor, Criminology and Criminal Justice

With regards to the forceful behaviors, I had hypothesized that they would either lead to an increase in injury due to the offender perceiving a loss of control over the victim (instrumental violence) or a decrease in injury if the behavior was effective in reducing the victim’s suitability as a target (expressive violence). Interestingly, these behaviors were both significant predictors of injury, but not consistent in regards to direction. Forceful physical self-protective behaviors were associated with an increase in minor injury. This finding is partially supported with the results of Bachman and Carmody’s (1994) analysis of domestic violence assaults which found that forceful selfprotective behaviors in general increased the probability of injury, but not the probability of needing medical treatment. Also, Bachman et al. (2002) [also] found that physical behaviors were associated with the probability of sustaining and injury in intimate partner assaults. Interpreted in line with my hypotheses, the results of the current study suggest that forceful physical behaviors pose a threat to the established control in the relationship and therefore illicit a stronger attack from the offender. An argument could be made for this interpretation using Carmody and Williams’s (1987) study which explored the perceptions of different sanctions for abusive and nonabusive men. Abusive men were more likely to perceive that their victims (their wives) would use retaliatory violence against them. That perceived sanction may also equate[s] to a perceived lack of control over the significant other and therefore a greater probability of using violence to assert dominance.

Turns Case—Prison

Victims of multiple forms of violence suffer the worst psychological and physical impacts

Anderson 10 (Kristen, Conflict, Power, and Violence in Families, Kristin Anderson, Western Washington University, Journal of Marriage and Family)

Family violence researchers have long recog- nized emotional, physical, sexual, and economic abuse as distinct types that often co-occur in the lives of victims, but the majority of stud- ies consider one type of violence in isolation from the others. In the past decade, new research on poly-victimization documented the extent of this co-occurrence and its importance for under- standing the effects of abuse on victims. There was substantial evidence that different types of violence co-occurred in victims’ lives (Finkel- hor, Olmrod, & Turner, 2007; Smith, White, & Holland, 2003; Williams, 2003). In their meta-analysis of 85 studies of risk factors for adult IPV, Stith, Smith, Penn, Ward, and Tritt (2004) found large effect sizes between men’s physical abuse perpetration and emotional and sexual abuse. Using a nationally representative sample of children ages 2 – 17, Finkelhor et al. (2007) found that 22% of the sample experienced ‘‘poly-victimization,’’ defined as experiencing four or more different types of violence within a single year. Poly-victims suffered greater trauma than victims who suffered multiple incidents of a single type of violence. Romito and Grassi (2007) studied the links between five types of violence victimization—by family members, witnessed family violence, peers/school vio- lence, IPV , and sexual violence—and negative mental health outcomes in a college student sample. They found that the negative effects of violence on mental health increased gradually among students who experienced zero to three types of abuse and dramatically among those who experienced four or five types of violence. Similarly, M. A. Dutton, Kaltman, Goodman, Weinfurt, and Vankos (2005) used cluster analy- sis to identify three patterns of IPV victimization among women using shelters and requesting civil protection orders. They found the highest levels of depressive and post-traumatic stress disorder symptoms among victims of Pattern 3, which was defined by high levels of concur- rent physical, psychological, and sexual abuse. These results suggest that studies on single types of abuse may not effectively explain variation in abuse outcomes because poly-victimization compounds to increase negative consequences for victims (Cherlin, Burton, Hurt, & Purvin, 2004; Finkelhor et al.; Richmond, Elliot, Pierce, Aspelmeir, & Alexander, 2009).

Prison controls the internal link to their impacts—it exacerbates domestic violence

Miller (Susan L. Miller and Michelle L. Meloy. “Women’s Use of Force: Voices of Women Arrested for Domestic Violence.” 2006. Sage Publications.)

Drawing on important work developed by the NCDBW (2001), Hirschel and Buzawa (2002) raised other consequences faced by women who were battered and arrested, including los[e]ing “all the rights and privileges attendant to the victim determination, such as transportation to a safe location, temporary housing in a shelter for battered persons, issuance of a restraining order, and participation in victim assistance and empowerment programs” (p. 1459). Employment may be lost, resulting in financial hardship. Women may lose custody of children and may develop a reluctance to report subsequent abuse to authorities despite a possible increase in danger from the abuser (Hirschel & Buzawa, 2002). The surreal position of being a [battered] woman who is battered who is formally processed as an offender exacerbates feelings of confusion and powerlessness; being mandated to a batterer intervention program, especially one designed for male abusers, only increases this absurdity.

AT—Self-Defense Law

Trayvon Martin makes conviction even when pleading self-defense more likely—Stand Your Ground Laws don’t answer my offense

Ovallie 4/5 (David Ovallie, journalist at the Miami Herald, Florida Self-Defense Attorneys fear Backlash in Self-Defense cases, 4/5/12, <http://www.miamiherald.com/2012/04/04/2733989/florida-defense-attorneys-fear.html>)

With the worldwide press, citizens and celebrities scrutinizing Florida’s “Stand Your Ground” law after the shooting death of Trayvon Martin, criminal defense lawyers statewide fear that the widespread publicity will hamper their efforts in front of judges and juries in upcoming self-defense cases. Sanford police cited the law in not initially arresting neighborhood watch captain George Zimmerman, 28, who fatally shot the 17-year-old Trayvon during a scuffle on Feb. 26 in Sanford. Lawyers in unrelated cases will undoubtedly have to grill potential jurors about the “Trayvon Martin Effect’ or the “Trayvon Factor,” said Nellie King, president of the Florida Association of Criminal Defense Lawyers. “The climate could not be worse for those folks who have been arrested, yet have viable self-defense claims. Florida defense lawyers can only hope that jurists, as well as jurors, tasked with reviewing future Stand Your Ground claims will weigh the case-specific facts before them in an impartial manner against Florida’s law, irrespective of the larger issues being debated in this country,” she said. Florida’s 2005 law eliminated a citizen’s duty to retreat when confronted with an attacker, while allowing judges — well before a jury trial — to decide whether a defendant is immune from prosecution because he or she acted in self-defense. Critics, including many police officers, say the law spurs vigilantes to shoot first and ask question later, while some prosecutors think that juries, not judges, should be the ones to decide on the self-defense issue.

Prefer Ev

A. Post date—Trayvon Martin case makes recency key

B. Florida is key state in Stand Your Ground legislation. It was the first one to develop such progressive legislation. In state evaluation of the legislation’s viability is preferable to their evidence.

( ) No self-defense pleas—only 9.6 % of homicides perpetuated by women meet the legal criteria for self-defense

Straus and Scott 07 (Murray A, Straus, Katreena Scott, Family Research Laboratory University of New Hampshire, GENDER SYMMETRY IN PARTNER VIOLENCE: THE EVIDENCE, THE DENIAL, AND THE IMPLICATIONS FOR PRIMARY PREVENTION AND TREATMENT, 2007)

Although men and women may physically aggress against each other at similar rates, their reasons for violence may differ. In particular, the predominance of mutual violence might really be a reflection of male attacks on female partners, to which women respond in self- defense or retaliation. Empirical evidence does not support that interpretation. Self-defense is a motive for only a small proportion of PV perpetrated by women (or men) (Carrado, George, Loxam, Jones, & Templar, 1996; Cascardi & Vivian, 1995; Felson & Messner, 1998; Follingstad, Wright, Lloyd, & Sebastian, 1991; Pearson, 1997; Sarantakos, 1998; Sommer, 1996). Using a variety of samples and assessment techniques, these studies find that self-defense characterizes less 20% of female violence. Moreover, in general population samples, men and women are equally represented as using violence in self-defense by both victim and perpetrator report. For example, using a college student population, Follingstad (1991) found that victims of violence reported their aggressors' motivation was self-defense in 1.4% of cases if the offender was a male, and 4.8% of cases if the offender was a female and perpetrators reported that their motivation was self-defensive about 18% of the time (17.7% for men, 18.5% for women). As violence becomes more severe, there are greater gender differences in the use violence in self- defense; however, self-defense is still a motivation for a relatively small proportion of violence. In a sample of couples presenting for marital therapy, Cascardi and Vivian (1995) found that 20% of wives and no husbands attributed their use of severe aggression to self-defense. In cases of homicide, which make up a tiny fraction of PV, it is estimated that 9.6% of homicides perpetrated by women meet legal criteria for self-defense, compared to .5% of homicides perpetrated by men (Felson & Messner, 1998). Other homicide studies use different criteria and estimate higher rates of self-defense (e.g.Mann, 1988; Mann, 1992), though no study has found self-defense for a majority of cases.